

SENATE BILL No. 509

By Committee on Assessment and Taxation

2-13

1 AN ACT concerning income taxation; relating to tax credits for education
2 expenses; providing an education opportunity tax credit for taxpayers
3 with eligible dependent children not enrolled in public school.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) For tax year 2024, and all tax years thereafter, there
7 shall be allowed as a credit against the tax liability of a resident individual
8 imposed under the Kansas income tax act an education opportunity tax
9 credit. The education opportunity tax credit shall be an amount equal to
10 either 75% of the amount of BASE aid as determined in K.S.A. 72-5132,
11 and amendments thereto, for each dependent child enrolled during the tax
12 year in a private school accredited by the state board of education or a
13 regional or national accrediting agency or 50% of the amount of BASE aid
14 as determined in K.S.A. 72-5132, and amendments thereto, for each
15 dependent child enrolled during the tax year in a nonaccredited private
16 school if such dependent child was eligible to enroll in kindergarten or any
17 of the grades one through 12 in a Kansas public school but was not so
18 enrolled.

19 (b) *For tax year 2024, the total amount of credits allowed under*
20 *this section shall not exceed \$75,000,000. For tax year 2025, and each*
21 *tax year thereafter, the maximum total amount of credits allowed under*
22 *this section shall be the same amount as the prior tax year, except that*
23 *for any tax year when the annual tax credit amount that was used for*
24 *the prior tax year was equal to or greater than 90% of the maximum*
25 *total amount of credits allowed for such prior tax year, the maximum*
26 *total amount of credits shall increase by 25%. The department of*
27 *revenue shall publish on its website information identifying such*
28 *increases in the maximum total amount of tax credits.*

29 (c) If the amount of the tax credit allowed by this section exceeds the
30 taxpayer's income tax liability imposed under the Kansas income tax act
31 for such tax year, the excess amount shall be refunded to the taxpayer.

32 ~~(e)~~(d) A taxpayer shall not receive the education opportunity tax
33 credit if such taxpayer fails to provide a valid social security number
34 issued by the social security administration for each dependent child of the
35 taxpayer for which the taxpayer is seeking such tax credit.

36 (e) *A taxpayer shall not be eligible to claim the education*

1 *opportunity tax credit for a dependent child for a tax year in which such*
2 *dependent child received a scholarship pursuant to the tax credit for low*
3 *income students scholarship program act, K.S.A. 72-4351 et seq., and*
4 *amendments thereto.*

5 ~~(f)~~(f) The department of revenue shall provide an eligible taxpayer
6 the opportunity to either claim and receive the education opportunity tax
7 credit in advance during the tax year or to claim the tax credit on their
8 annual income tax forms. If the taxpayer chooses to claim the tax credit in
9 advance during the tax year, the taxpayer may file an application at any
10 time during the tax year on a form prescribed by the department of
11 revenue.

12 ~~(g)~~(g) (1) The department of revenue shall consult with the state
13 department of education for the purpose of determining whether or not a
14 dependent child of a taxpayer claiming an education opportunity tax credit
15 is enrolled in a public school during the tax year for which the credit is
16 claimed.

17 (2) By making a claim for the education opportunity tax credit, the
18 taxpayer acknowledges that the department of revenue may consult with
19 and receive information from the state department of education regarding
20 the *public school* enrollment status of any dependent child for which the
21 tax credit is being claimed.

22 ~~(h)~~(h) On or before January 15 of each year, the department of
23 revenue shall prepare and submit to the legislature a report on the
24 education opportunity tax credit for the immediately preceding tax year.
25 Such report shall include, but not be limited to, the total amount of credits
26 claimed and any information on known fraudulent claims for the credit.

27 ~~(i)~~(i) Any person who intentionally files a false claim for the
28 education opportunity tax credit shall be subject to a civil penalty in an
29 amount computed in the manner prescribed in K.S.A. 79-3228, and
30 amendments thereto. *Any person who receives the education opportunity*
31 *tax credit and does not send their child to a private school as described*
32 *in subsection (a) shall be subject to a civil penalty in an amount*
33 *computed in the manner prescribed in K.S.A. 79-3228, and amendments*
34 *thereto.*

35 ~~(j)~~(j) The amount of BASE aid as determined in K.S.A. 72-5132, and
36 amendments thereto, used to calculate the tax credit amount each year
37 shall be the BASE aid for the school year in effect on January 1 of the tax
38 year.

39 ~~(k)~~(k) This section shall be a part of and supplemental to the Kansas
40 income tax act.

41 Sec. 2. This act shall take effect and be in force from and after its
42 publication in the Kansas register.